

APPEAL NO. 042318
FILED OCTOBER 20, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on August 17, 2004. The hearing officer determined that the compensable injury of _____, does not include complex regional pain syndrome (CRPS) to either leg. The appellant (claimant) appeals this determination on sufficiency of the evidence grounds. The respondent (carrier) asserts that the claimant's appeal is untimely and, in the alternative, urges affirmance.

DECISION

Affirmed.

We first address the carrier's assertion that the claimant's appeal is untimely. Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 143.3(e) (Rule 143.3(e)) provides that an appeal is presumed to have been timely filed if it is mailed not later than the 15th day after the date of receipt of the hearing officer's decision and received by the Texas Workers' Compensation Commission (Commission) not later than the 20th day. Pursuant to Section 410.202(d), Saturdays, Sundays, and holidays listed in Section 662.003 of the Texas Government Code are not included in the computation of time in which a request for appeal must be filed. Commission records indicate that the hearing officer's decision was mailed to the claimant on August 24, 2004. The claimant was deemed to have received the decision on August 29, 2004. Rule 102.5(d). The last date for the claimant to timely file an appeal was September 20, 2004, and the deadline for receipt by the Commission was September 27, 2004. The claimant mailed her appeal on September 16, 2004, and it was stamped as received by the Commission's Chief Clerk of Proceedings on September 21, 2004. The appeal was timely filed.

The hearing officer did not err in determining that the compensable injury of _____, does not include CRPS to either leg. This determination involved a question of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence, including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). In view of the evidence presented, we cannot conclude that the hearing officer's determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The decision and order of the hearing officer is affirmed.

The true corporate name of the insurance carrier is **HARTFORD CASUALTY INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Edward Vilano
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Veronica L. Ruberto
Appeals Judge